



W.P.No.12253 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.12253 of 2021
and W.M.P.Nos.13030 & 13031 of 2021

The Management
Tamil Nadu Government Transport Corporation
(Kovai Division) Kovai Ltd.,
37, Mettupalayam Road,
Coimbatore – 641 043.

... Petitioner

Vs.

1. J.L.suraj

2. The Assistant Commissioner of Labour,
Coonoor,
Nilgiris District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records in Case No.733 of 2019 on the file of the second respondent dated 04.12.2019 and quash the same.

For Petitioners : Mr.A.Sundaravadhanan

For Respondents : Mr.M.Jayanthi
Additional Govt. Pleader for R2

No appearance for R1



W.P.No.12253 of 2021

ORDER

WEB COPY

Heard Mr.A.Sundaravadhanan the learned counsel for the Petitioner and Mrs.M.Jayanthi, the learned Additional Government Pleader for the second respondent.

2. This writ petition has been filed challenging the order of the Assistant Commissioner of Labour in Case No.733 of 2019 dated 04.12.2019 for conferment of permanent status wherein the authority has accepted the claim of 19 workmen of the petitioner's Corporation that they are the permanent workers of the petitioner Management on their completion of 480 days of service from the date of appointment and they have to be regularized. Directions have been given in this regard to the petitioner Corporation. Now the petitioner has filed this Writ Petition on the ground that the Management and the employees Union have entered into 12(3) settlement in which there is a Clause agreeing that the employees who have satisfied 240 days in a given year will be regularized. In pursuant to the above 12(3) settlement, a Government Order in G.O. (D) No.41, dated 16.03.2007, came to be passed.



W.P.No.12253 of 2021

WEB COPY 3. If the settlement has to be given effect, then the order of the appropriate authority dated 04.12.2019 cannot be reconciled, as the terms of the settlement and the orders are mutually contradictory in terms of the duration during which the petitioner has to be given with the benefit of regularization. So far as the first respondent is concerned, he stands in Sl.No.19 of the impugned order dated 04.12.2019.

4. Even though there is some difficulty in reading both the benefits given to the workmen by the appropriate authority conferring the permanent status and the Government Order passed in tune with the 12(3) settlement, the fact remains that with regard to regularization, the riddle has been resolved by the judgment of the Division Bench of this Court in its judgment rendered in W.P.No.1566/2018 dated 26.03.2024. In a similarly placed claim the Division Bench has appreciated the matter and passed an order stating that the order of the authority under the Permanent Status Act is infirm and running counter to 12(3) Settlement agreed between the Management and the workmen and hence the same is liable to be quashed. The very same yardstick has to be applied to the facts of this case as well. For the sake of clarity, the relevant part of the order passed in W.P.No.1566/2018 is



extracted hereunder:

WEB COPY

“ The order dated 30.06.2017 passed by the Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 is under challenge in the present writ petition.

2. It is not in dispute that the 2 nd respondent/workmen was engaged as casual labour to the post of Conductor on 18.05.1998. He was terminated from services on 23.02.1999. Subsequently, he was absorbed as conducted in the sanctioned post with effect from 21.10.1999. On completion of 480 days of services, the service of the workmen was confirmed based on 12 (3) Settlement.

3. When the service conditions of the petitioner are governed under 12(3) Settlement and based on the settlement, the services are confirmed, the workmen cannot turn around and claim retrospective confirmation of service based on the Conferment of Permanent Status Act. Once the service conditions are governed under 12(3) Settlement and the benefit of settlement has already been accepted by the workmen, he cannot claim retrospective confirmation.

4. Thus, we find that the order passed by the Authority under the Permanent Status Act is infirm and running counter to 12(3) Settlement agreed between the management and the workmen. The said order, which is impugned in the present writ petition in proceedings Na.Ka.No.E/4557/2015 dated 30.06.2017 is quashed. Consequently, the Writ Petition stands allowed. No costs. Connected W.M.P is closed.”

5. In the instant case the order of the second respondent authority is



W.P.No.12253 of 2021

running counter to the 12(3) settlement agreed between the petitioner Management and the first respondent's Union and hence, the same is liable to be set aside.

6. Accordingly, this Writ Petition is allowed and the order passed by the second respondent dated 04.12.2019 made in Case No.733 of 2019 is hereby quashed. No costs. Connected miscellaneous petitions are closed.

18.09.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order
bkn



WEB COPY



W.P.No.12253 of 2021

R.N.MANJULA, J.

bkn

To:

The Assistant Commissioner of Labour,
Coonoor,
Nilgiris District.

W.P.No.12253 of 2021

18.09.2024